

TITLE XII

PUBLIC SAFETY AND WELFARE

CHAPTER 173-B

PROTECTION OF PERSONS FROM DOMESTIC VIOLENCE

Section 173-B:9

173-B:9 Violation of Protective Order; Penalty. –

I. (a) When the defendant violates either a temporary or permanent protective order issued or enforced under this chapter, peace officers shall arrest the defendant and ensure that the defendant is detained until arraignment, provided that in extreme circumstances, such as when the health of the defendant would be jeopardized by the temporary detention, a judge in response to a request by the arresting law enforcement officer or agency, may order an alternative to detention pending arraignment. Such arrests may be made within 12 hours without a warrant upon probable cause, whether or not the violation is committed in the presence of a peace officer.

(b) Subsequent to an arrest, the peace officer shall seize any firearms and ammunition in the control, ownership, or possession of the defendant and any deadly weapons which may have been used, or were threatened to be used, during the violation of the protective order. The law enforcement agency shall maintain possession of the firearms, ammunition, or deadly weapons until the court issues an order directing that the firearms, ammunition, or deadly weapons be relinquished and specifying the person to whom the firearms and ammunition or deadly weapons will be relinquished.

II. The prosecution and sentencing for criminal contempt for a violation of a protective order shall not preclude the prosecution of or sentencing for other criminal charges underlying the contempt.

III. A person shall be guilty of a class A misdemeanor if such person knowingly violates a protective order issued under this chapter, or RSA 458:16, III, or any foreign protective order enforceable under the laws of this state. Charges made under this chapter shall not be reduced to a lesser charge, as permitted in other instances under RSA 625:9.

IV. Any person convicted under RSA 173-B:9, III, or who has been convicted in another jurisdiction of violating a protective order enforceable under the laws of this state, who, within 6 years of such conviction or the completion of the sentence imposed for such conviction, whichever is later, subsequently commits and is convicted of one or more offenses involving abuse may be charged with an enhanced penalty for each subsequent offense as follows:

(a) There shall be no enhanced charge under this section if the subsequent offense is a class A felony or an unclassified felony;

(b) If the subsequent offense would otherwise constitute a class B felony, it may be charged as a class A felony;

(c) If the subsequent offense would otherwise constitute a class A misdemeanor, it may be charged as a class B felony;

(d) If the subsequent offense would otherwise constitute a class B misdemeanor, it may be charged as a class A misdemeanor;

(e) If the subsequent offense would otherwise constitute a violation, it may be charged as a class B misdemeanor.

V. A victim of domestic violence shall be entitled to all rights granted to victims of crime under RSA 21-M:8-k.

Source. 1999, 240:3. 2002, 79:1. 2003, 219:1, eff. Jan. 1, 2004.